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# Editors' Preface

David J. Newburger

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● EDITORS' PREFACE ●

When a publication is challenged under the state or federal obscenity laws, should the local librarian, a nationally renowned psychologist, or a scholarly litterateur be permitted to say "In my expert opinion, the dominant theme of this book appeals to the prurient interest of the average man"? In the Lead Article of this issue of the *Review*, Charles M. Stern answers this question with a resounding "No." While analogizing obscenity trials to ad hoc legislative hearings, Mr. Stern concludes that the role of the expert is not to render subjective conclusions on ultimate legal facts but rather to provide competence-related information so that the triers of fact may better understand all the vagaries of the test to be applied. With this analysis, the bench and bar can begin to make rational use of expert testimony in obscenity trials and hopefully prevent the litigation process from deteriorating into a submissive assessment of seemingly omniscient expertise.

In the Comment of this issue, Francis A. King studies the concept of imposing liability for punitive damages on shippers whose captains' malfeasance results in ship wreck and injury. Viewing the policies affording a ship's captain uniquely autonomous authority while at sea and other factors relating to the operation of the American merchant marine, Mr. King concludes that creating such a punitive damage liability could produce the reverse of the result sought — that of making it more likely that ships will return to port safely.

